



MANAGEMENT OF TERRORISM CASES

A PROTOCOL ISSUED BY THE PRESIDENT OF THE QUEEN'S BENCH DIVISION

Terrorism Cases

1. This protocol applies to 'terrorism cases'. For the purposes of this Protocol a case is a 'terrorism case' where:
 - a. One of the offences charged against any of the defendants is indictable only and it is alleged by the prosecution that there is evidence that it took place during an act of terrorism or for the purposes of terrorism as defined in s1 of the Terrorism Act 2000. This may include, but is not limited to:
 - i murder
 - ii manslaughter
 - iii an offence under section 18 of the Offences against the Person Act 1861 (wounding with intent)
 - iv an offence under section 23 or 24 of that Act (administering poison etc)
 - v an offence under section 28 or 29 of that Act (explosives)
 - vi an offence under section 2,3 or 5 of the Explosive Substances Act 1883 (causing explosions)
 - vii an offence under section 1 (2) of the Criminal Damage Act 1971 (endangering life by damaging property)
 - viii an offence under section 1 of the Biological Weapons Act 1974 (biological weapons)
 - ix an offence under section 2 of the Chemical Weapons Act 1996 (chemical weapons)
 - x an offence under section 56 of the Terrorism Act 2000 (directing a terrorist organisation)
 - xi an offence under section 59 of that Act (inciting terrorism overseas)
 - xii offences under (v), (vii) and (viii) above given jurisdiction by virtue of section 62 of that Act (terrorist bombing overseas)

xiii an offence under section 5 of the Terrorism Act 2006 (preparation of terrorism acts)

- b. One of the offences charged is indictable only and includes an allegation by the prosecution of serious fraud that took place during an act of terrorism or for the purposes of terrorism as defined in s1 of the Terrorist Act 2000 and meets the test to be transferred to the Crown Court under section 4 of the Criminal Justice Act 1987.
- c. One of the offences charged is indictable only includes an allegation that a defendant conspired, incited or attempted to commit an offence under sub paragraphs (1) a) or b) above.
- d. It is a case (which can be indictable only or triable either way) that a judge of the terrorism cases list (see paragraph 2a) below) considers should be a terrorism case. In deciding whether a case not covered by subparagraphs (1) a), b) or c) above should be a terrorism case, the judge may hear representations from the Crown Prosecution Service.

The Terrorism cases list

2.
 - a. All terrorism cases, wherever they originate in England and Wales, will be managed in a list known as the 'terrorism cases list' by the Presiding Judges of the South Eastern Circuit and such other judges of the High Court as are nominated by the President of the Queen's Bench Division.
 - b. Such cases will be tried, unless otherwise directed by the President of the Queen's Bench Division, by a judge of the High Court as nominated by the President of the Queen's Bench Division.
3. The judges managing the terrorism cases referred to in paragraph (2) will be supported by the London and South Eastern Regional Co-ordinator's Office (the 'Regional Co-ordinator's Office'). An official of that office or nominated by that office will act as the case progression officer for cases in that list for the purposes of part 3.4 of the Criminal Procedure Rules.

Procedure after charge

4. Immediately after a person has been charged in a terrorism case, anywhere in England and Wales, a representative of the Crown Prosecution Service will notify the person on the 24 hour rota for special jurisdiction matters at Westminster Magistrates' Court of the following information:
 - a. The full name of each defendant and the name of his solicitor or other legal representative, if known
 - b. The charges laid
 - c. The name and contact details of the Crown Prosecutor with responsibility for the case, if known.

d. Confirmation that the case is a terrorism case

5. The person on the 24-hour rota will then ensure that all terrorism cases wherever they are charged in England and Wales are listed before the Chief Magistrate or other District Judge designated under the Terrorism Act 2000. Unless the Chief Magistrate or other District Judge designated under the Terrorism Act 2000 directs otherwise the first appearance of all defendants accused of terrorism offences will be listed at Westminster Magistrates' Court.
6. In order to comply with section 46 of the Police and Criminal Evidence Act 1984, if a defendant in a terrorism case is charged at a police station within the local justice area in which Westminster Magistrates' Court is situated the defendant must be brought before Westminster Magistrates' Court as soon as is practicable and in any event not later than the first sitting after he is charged with the offence. If a defendant in a terrorism case is charged in a police station outside the local justice area in which Westminster Magistrates' Court is situated, unless the Chief Magistrate or other designated judge directs otherwise, the defendant must be removed to that area as soon as is practicable. He must then be brought before Westminster Magistrates' Court as soon as is practicable after his arrival in the area and in any event not later than the first sitting of Westminster Magistrates' Court after his arrival in that area.
7. As soon as is practicable after charge a representative of the Crown Prosecution Service will also provide the Regional Listing Co-ordinator's Office with the information listed in paragraph 4 above.
8. The Regional Co-ordinator's Office will then ensure that the Chief Magistrate and the Legal Services Commission have the same information.

Cases to be sent to the Crown Court under section 51 of the Crime and Disorder Act 1998

9. A preliminary hearing should normally be ordered by the Magistrates' Court in a terrorism case. The court should ordinarily direct that the preliminary hearing should take place about 14 days after charge.
10. The sending Magistrates' Court should contact the Regional Listing Co-ordinator's Office who will be responsible for notifying the Magistrates' Court as to the relevant Crown Court to which to send the case.
11. In all terrorism cases, the Magistrates' Court case progression form for cases sent to the Crown Court under section 51 of the Crime and Disorder Act 1998 should not be used. Instead of the automatic directions set out in that form, the Magistrates' Court shall make the following directions to facilitate the preliminary hearing at the Crown Court:
 - a. Three days prior to the preliminary hearing in the terrorism cases list, the prosecution must serve upon each defendant and the Regional Listing co-ordinator:

- i A preliminary summary of the case
 - ii The names of those who are to represent the prosecution, if known.
 - iii An estimate of the length of the trial
 - iv A suggested provisional timetable which should generally include:
 - o The general nature of further enquiries being made by the prosecution
 - o The time needed for the completion of such enquiries
 - o The time required by the prosecution to review the case
 - o A timetable for the phased service of the evidence
 - o The time for the provision by the Attorney General for his consent if necessary
 - o The time for service of the detailed defence case statement
 - o The date for the case management hearing
 - o Estimated trial date
 - v A preliminary statement of the possible disclosure issues setting out the nature and scale of the problem including the amount of unused material, the manner in which the prosecution seeks to deal with these matters and a suggested timetable for discharging their statutory duty.
 - vi Any information relating to bail and custody time limits
- b. One day prior to the preliminary hearing in the terrorist cases list, each defendant must serve in writing on the Regional Listing Co-ordinator and the prosecution:
- i The proposed representation
 - ii Observations on the timetable
 - iii An indication of plea and the general nature of the defence

Cases to be transferred to the Crown Court under section 4(1) of the Criminal Justice Act 1987

12. If a terrorism case is to be transferred to the Crown Court the Magistrates' Court should proceed as if it is being sent to the Crown Court, as in paragraphs 9-11 above.
13. When a terrorism case is so sent or transferred the case will go into the terrorism list and be managed by a judge as described in paragraph 2 above.

The preliminary hearing at the Crown Court

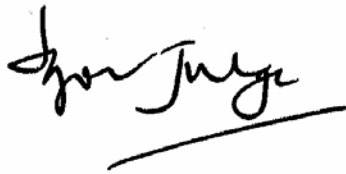
14. At the preliminary hearing, the judge will determine whether the case is one to remain in the terrorism list and if so give directions setting the provisional timetable.
15. The Legal Services Commission must attend the hearing by an authorised officer to assist the court.

Use of video links

17. Unless a judge otherwise directs, all Crown court hearings prior to the trial will be conducted by video link for all defendants in custody.

Security

18. The police service and the prison service will provide the Regional Listing Co-ordinator's Office with an initial joint assessment of the security risks associated with any court appearance by the defendants within 14 days of charge. Any subsequent changes in circumstances or the assessment of risk which have the potential to impact upon the choice of trial venue will be notified to the Regional Listing Co-ordinator's Office immediately.

A handwritten signature in black ink, appearing to read "John Judge", with a horizontal line underneath it.

30 January 2007